40E-10.021 Definitions.

(1) through (6) No Change.

(7) Everglades Agricultural Area (EAA) Reservoir – A reservoir located in Palm Beach County, Florida, south of the City of South Bay between the Miami and North New River Canals as described in Appendix 3 and depicted in Figure 3-5.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History–New 7-2-09, Amended 3-18-10, 7-21-13, 7-16-14, 1-31-21.

40E-10.031 Water Reservations Implementation.

(1) through (5) No Change.

(6) Water reserved for the protection of fish and wildlife released via operation from the EAA Reservoir is defined in paragraph 40E-10.061(3)(a), F.A.C.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History–New 7-2-09, Amended 3-18-10, 7-21-13, 7-14-14, 7-16-14, 1-3-21.

40E-10.061 Water Reservation Areas: Lower East Coast Planning Area.

(1) through (2) No Change.

(3) EAA Reservoir:

(a) All surface water released, via operation, from the EAA Reservoir that is directed to the Lower East Coast Everglades Waterbodies through Structures S-624, S-625, and S-626 (see Figure 3-6) is reserved from allocation.

(b) The water prospectively reserved under this subsection is not available for fish and wildlife until the Governing Board makes a formal determination, pursuant to state and federal law, that the EAA Reservoir is operational.

(c) Within 90 days of approval of the Final Project Operating Manual or Final System Operating Manual for the EAA Reservoir, the District shall publish a Notice of Rule Development to revise the reservation contained in paragraph 40E-10.061(3)(a), F.A.C., above, and criteria in Section 3.11.6 of the Applicant's Handbook, incorporated by reference in Rule 40E-2.091, F.A.C. Said rulemaking must result in an adopted rule that is in effect, unless subject to legal proceedings or legislative ratification, within two years of publication of the Notice of Rule Development and before the EAA Reservoir is deemed operational pursuant to paragraph 40E-10.061(3)(b), F.A.C., above.

(d) The reservation contained in paragraph 40E-10.061(3)(a), F.A.C., above, and the criteria contained in Section 3.11.6 of the "Applicant's Handbook for Water Use Permit Applications within the South Florida Water Management District" (Applicant's Handbook), incorporated by reference in Rule 40E-2.091, F.A.C., shall be revised in light of changed conditions or new information.

(e) Water released from the EAA Reservoir through structure S-628 is not reserved.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History–New 7-21-13, Amended 3-15-17, 1-31-21.

APPENDIX 1 AND APPENDIX 2 – No Change.

APPENDIX 3: LOWER EAST COAST PLANNING AREA
Figures 3-1 through 3-4 B. – No Change.

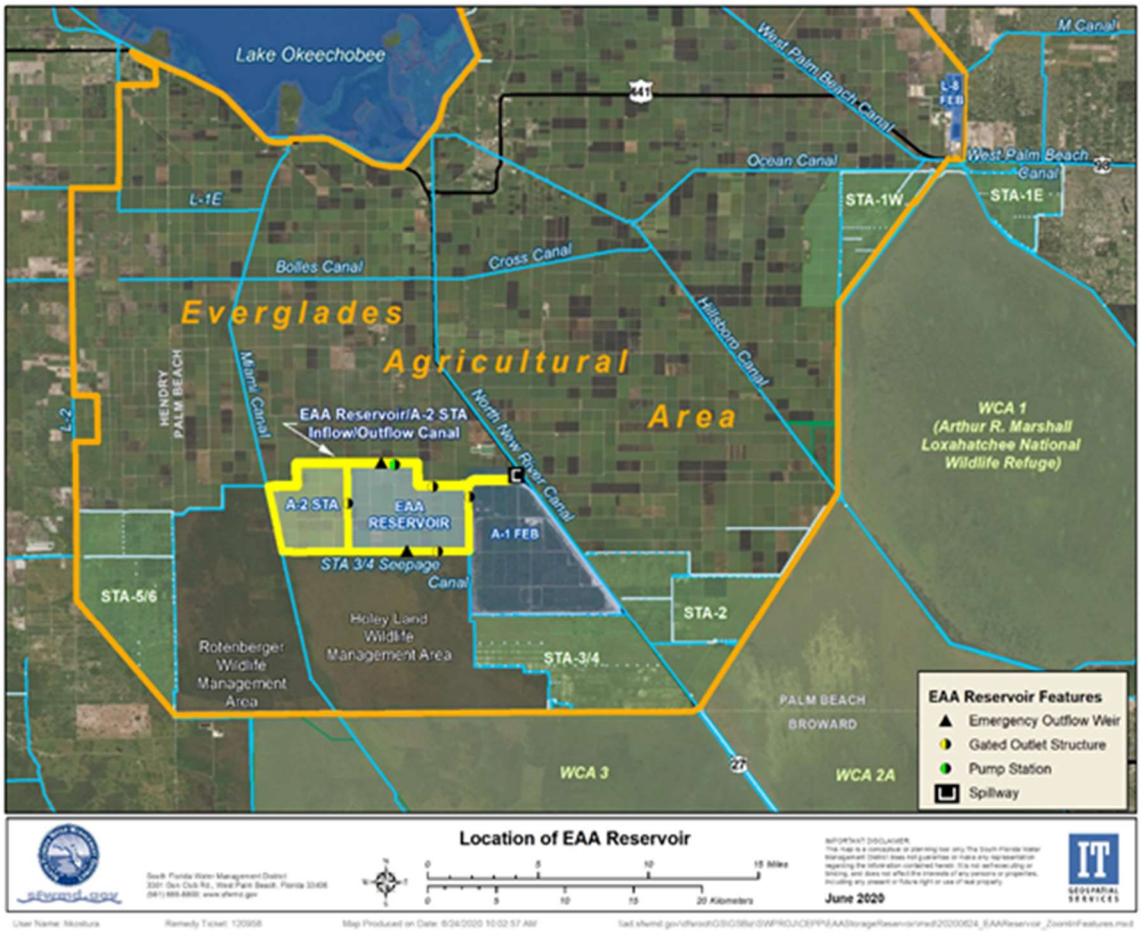

Figure 3-5. Location of the EAA Reservoir.

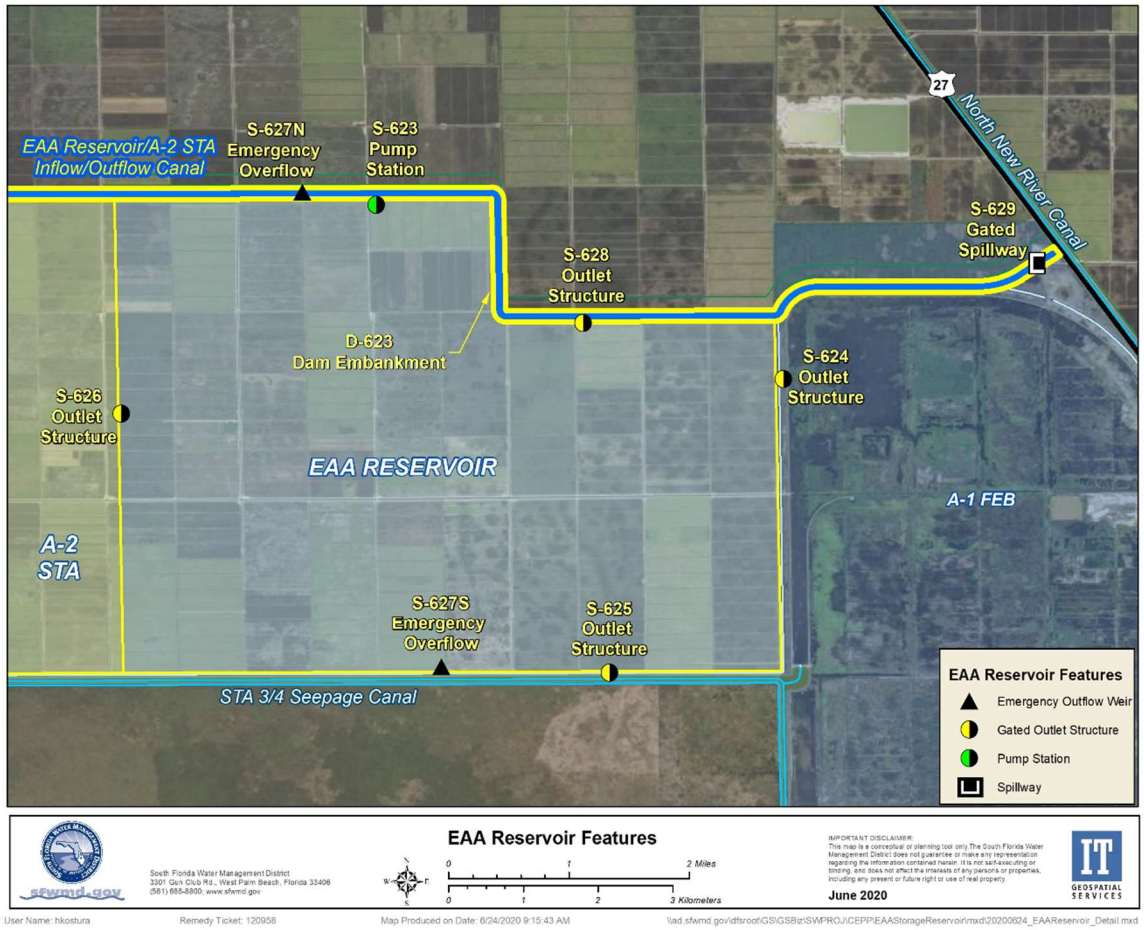

Figure 3-6. Key Features of the EAA Reservoir.

40E-2.091 Publications Incorporated by Reference.

(1) The "Applicant's Handbook for Water Use Permit Applications within the South Florida Water Management District – January 31, " (http://www.flrules.org/Gateway/reference.asp?No=Ref12649 is incorporated by reference herein.

(2) The following forms and materials are referenced in the "Applicant's Handbook for Water Use Permit Applications within the South Florida Water Management District – January 31, 2021" (http://www.flrules.org/Gateway/reference.asp?No=Ref12649) and are incorporated herein:

(a) Form 1376, Report of Planting and Harvest of Seasonal Crops Form, (July 14, 2014) (http://www.flrules.org/Gateway/reference.asp?No=Ref-03855) referenced in Subsection 5.2.1E;

(b) Form 1377, Water Quality Report Form, (July 14, 2014) (http://www.flrules.org/Gateway/reference.asp?No=Ref-03856) referenced in Subsection 4.2.1;

(c) Form 1378, Water Use Pumpage Report Form, (July 14, 2014) (http://www.flrules.org/Gateway/reference.asp?No=Ref-03857) referenced in Subsection 4.1.1;

(d) Form 1387, Flow Meter Accuracy Calibration Report Form, (July 14, 2014)

(http://www.flrules.org/Gateway/reference.asp?No=Ref-03881) referenced in Subsection 4.1.1;

(e) Form 1388, Alternative Method Calibration Report Form, (July 14, 2014) (http://www.flrules.org/Gateway/reference.asp?No=Ref-03882) referenced in Subsection 4.1.1; and,

(f) Form 1389, Crop (Freeze) Protection Form, (July 14, 2014) (http://www.flrules.org/Gateway/reference.asp?No=Ref-03883) referenced in Subsection 4.1.1;

(g) Subsections referenced in Section 3.3.6 of the "Environmental Resource Permit Applicant's Handbook, Volume I (General and Environmental)", (June 1, 2018) incorporated by reference in paragraph 62-330.010(4)(a), F.A.C., as follows:

1. Subsection 10.2.2.3 regarding Assessment of Impacts;
2. Subsection 10.3.1 regarding Types of Mitigation, specifically Subsections 10.3.1.1, 10.3.1.3, and 10.3.1.8;
3. Subsection 10.3.2 regarding Guidelines for the Amount of Mitigation;
4. Subsection 10.3.3 regarding Mitigation Proposals;
5. Subsection 10.3.4 regarding Monitoring Requirements for Mitigation Areas;
6. Subsection 10.3.5 regarding Protection of Mitigation Areas;
7. Subsection 10.3.6 regarding Mitigation Success;
8. Subsection 10.3.7 regarding Financial Responsibility for Mitigation; and,
9. Figure 10.2.8-5.

(3) Subsections 62-40.416(7), (8) and (9), F.A.C. (May 3, 2014) (http://www.flrules.org/Gateway/reference.asp?No=Ref-05792) are referenced in Subsection 3.1.2.A and incorporated by reference herein.

(4) The publications incorporated herein are available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1 (800) 432-2045, ext. 6805 or (561) 682-6805.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171, 373.216 FS. Law Implemented 373.042, 373.0421, 373.083, 373.109, 373.196, 373.219, 373.223, 373.224, 373.229, 373.232, 373.233, 373.236, 373.239, 373.250 FS. History–New 9-3-81, Formerly 16K-2.035(1), Amended 2-24-85, 11-21-89, 1-4-93, 4-20-94, 11-26-95, 7-11-96, 4-9-97, 12-10-97, 9-10-01, 12-19-01, 8-1-02, 6- 9-03, 8-31-03, 4-23-07, 9-13-07, 2-13-08, 10-14-08, 7-2-09, 3-15-10, 3-18-10, 9-26-12, 10-23-12, 7-21-13, 7-14-14, 7-16-14, 9- 7-15,1-31-21.

Applicant's Handbook

3.11.6 Everglades Agricultural Area (EAA) Reservoir

The Everglades Agricultural Area Reservoir Water Reservation, as stated in paragraph 40E-10.061(3)(a), F.A.C., protects the Central Everglades Planning Project water needed for fish and wildlife within the Lower East Coast Everglades Waterbodies. Renewals of existing permits and applications received before the conditions identified in paragraphs 40E-10.061(3)(b)&(c), F.A.C., and which otherwise satisfy the requirements of Chapter 40E-2, F.A.C., as applicable, do not use water reserved under paragraph 40E-10.061(3)(a), F.A.C. In accordance with Section 373.1501(5)(d), F.S., the quantity of water available to existing legal users is not diminished by the reservation rule.